

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

## PCT

To: JOSEPH J. MALLON  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
14TH FLOOR  
IRVINE, CA 92614

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT AND  
THE WRITTEN OPINION OF THE INTERNATIONAL  
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing  
(day/month/year) **07 OCT 2008**

Applicant's or agent's file reference  
**DEXCOM.027QP**

**FOR FURTHER ACTION** See paragraphs 1 and 4 below

International application No.  
**PCT/US 08/66600**

International filing date  
(day/month/year) **11 June 2008 (11.06.2008)**

Applicant **DEXCOM, INC.**

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

**For more detailed instructions,** see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest: the applicant will be notified as soon as a decision is made.

**4. Reminders**

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US  
Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450, Alexandria, Virginia 22313-1450  
Facsimile No. 571-273-3201

Authorized officer:

Lee W. Young

PCT Helpdesk: 571-272-4300  
PCT OSP: 571-272-7774

Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference DEXCOM.027QP	<b>FOR FURTHER ACTION</b> <div style="float: right; font-size: small;">see Form PCT/ISA/220 as well as, where applicable, item 5 below.</div>	
International application No. PCT/US 08/66600	International filing date ( <i>day/month/year</i> ) 11 June 2008 (11.06.2008)	(Earliest) Priority Date ( <i>day/month/year</i> ) 13 June 2007 (13.06.2007)
Applicant DEXCOM, INC.		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed.  
☐ a translation of the international application into \_\_\_\_\_ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (see Box No. II).

3. ☐ **Unity of invention is lacking** (see Box No. III).

4. With regard to the **title**,

- ☒ the text is approved as submitted by the applicant.  
☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- ☒ the text is approved as submitted by the applicant.  
☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 30  
☒ as suggested by the applicant.  
☐ as selected by this Authority, because the applicant failed to suggest a figure.  
☐ as selected by this Authority, because this figure better characterizes the invention.
- b. ☐ none of the figures is to be published with the abstract.

## INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 08/66600

<b>A. CLASSIFICATION OF SUBJECT MATTER</b> IPC(8) - A61B 5/00 (2008.04) USPC - 600/365 According to International Patent Classification (IPC) or to both national classification and IPC		
<b>B. FIELDS SEARCHED</b> Minimum documentation searched (classification system followed by classification symbols) IPC(8) - A61B 5/00 (2008.04) USPC - 600/365  Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched IPC(8) - A61B 5/00 (2008.04) USPC - 600/365, 309, 310, 316, 345, 347  Electronic data base consulted during the international search (name of data base and, where practicable, search terms used) PubWest: US PAT, US PGPUB, US OCR, EPO, JPO; Google Scholar; Keyterms: sensor, detector, monitor, analyte, continuous sensor analyte, signal artifact, detect, determine, recognize, threshold, predetermine, noise, filter, discriminator, residual artifact		
<b>C. DOCUMENTS CONSIDERED TO BE RELEVANT</b>		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2007/0032706 A1 (KAMATH et al.) 08 February 2007 (08.02.2007) Abstract; para [0007], [0008], [0024], [0046], [0049], [0056], [0118]-[0121], [0127], [0162], [0184], [0187], [0215], [0237], [0245], [0292], [0329], [0368], [0400], [0420], [0471], [0472], [0480], [0483]-[0485], [0488]	1-34
<input type="checkbox"/> Further documents are listed in the continuation of Box C. <input type="checkbox"/>		
<b>* Special categories of cited documents:</b> "A" document defining the general state of the art which is not considered to be of particular relevance "E" earlier application or patent but published on or after the international filing date "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published prior to the international filing date but later than the priority date claimed "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art "&" document member of the same patent family		
Date of the actual completion of the international search 30 September 2008 (30.09.2008)		Date of mailing of the international search report <b>07 OCT 2008</b>
Name and mailing address of the ISA/US Mail Stop PCT, Attn: ISA/US, Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201		Authorized officer: Lee W. Young  PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:  
JOSEPH J. MALLON  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
14TH FLOOR  
IRVINE, CA 92614

Date of mailing  
(day/month/year) **07 OCT 2008**

Applicant's or agent's file reference  
**DEXCOM.027QP**

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
**PCT/US 08/66600**

International filing date (day-month-year)  
**11 June 2008 (11.06.2008)**

Priority date (day-month-year)  
**13 June 2007 (13.06.2007)**

International Patent Classification (IPC) or both national classification and IPC  
**IPC(8) - A61B 5/00 (2008.04)**  
**USPC - 600/365**

Applicant **DEXCOM, INC.**

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/US  
Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450, Alexandria, Virginia 22313-1450  
Facsimile No. **571-273-3201**

Date of completion of this opinion  
**30 September 2008 (30.09.2008)**

Authorized officer:  
**Lee W. Young**

PCT Helpdesk: 571-272-4300  
PCT OSP: 571-272-7774

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US 08/66600

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed.  
☐ a translation of the international application into \_\_\_\_\_ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing  
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper  
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed  
☐ filed together with the international application in electronic form  
☐ furnished subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US 08/66600

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability:  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	NONE	YES
	Claims	1-34	NO
Inventive step (IS)	Claims	NONE	YES
	Claims	1-34	NO
Industrial applicability (IA)	Claims	1-34	YES
	Claims	NONE	NO

**2. Citations and explanations:**

Claims 1-34 lack novelty under PCT Article 33(2) as being anticipated by US 2007/0032706 A1 to Kamath et al. (hereinafter "Kamath").

In regards to claim 1, Kamath teaches a method for analyzing data from a continuous analyte sensor (para [0127]), the method comprising: receiving data from an analyte sensor (para [0008]); detecting an occurrence of a signal artifact event based at least in part on an amplitude of a signal artifact, including detecting a start and an end of a signal artifact event (Abstract; para [0007], [0187], [0368]); and processing the received data, wherein the processing is based at least in part upon whether the signal artifact event occurs (para [0008]).

In regards to claim 2, Kamath teaches that the detecting the occurrence of a signal artifact event comprises determining an amplitude of sensor data and determining an amplitude of a signal artifact (para [0162], [0292], [0368]).

In regards to claim 3, Kamath teaches that the detecting the occurrence of a signal artifact event comprises detecting a start of a signal artifact event when an amplitude of a signal artifact meets a first predetermined condition (para [0046], [0049], [0237], [0483], [0484]).

In regards to claim 4, Kamath teaches that the detecting the occurrence of a signal artifact event comprises detecting an end of a signal artifact event when an amplitude of a signal artifact meets a second predetermined condition (para [0046], [0049], [0237], [0483], [0485]).

In regards to claim 5, Kamath teaches that the first predetermined condition is different from the second predetermined condition (para [0046], [0049], [0237], [0488]).

In regards to claim 6, Kamath teaches that the detecting an occurrence of a signal artifact event comprises comparing received data with filtered data to obtain at least one residual (para [0471]).

In regards to claim 7, Kamath teaches that the first predetermined condition is a residual amplitude that is at least about 5% of a sensor data amplitude, and wherein the second predetermined condition is a residual amplitude that is no more than about 5% of a sensor data amplitude (para [0329], [0400], and [0420]).

In regards to claim 8, Kamath teaches that the detecting an occurrence of a signal artifact event comprises determining a differential between a first residual at a first time point and a second residual at a second time point (para [0471], [0472]).

In regards to claim 9, Kamath teaches that the first predetermined condition is a differential amplitude that is at least about 5% of a sensor data amplitude, and wherein the second predetermined condition is a differential amplitude that is no more than about 5% of a sensor data amplitude (para [0329], [0400], and [0420]).

In regards to claim 10, Kamath teaches that the processing the received data comprises displaying a graphical representation of filtered data responsive to a determination of a start of a signal artifact event (para [0024], [0245]).

In regards to claim 11, Kamath teaches that the received data comprises unfiltered data, and wherein processing the received data comprises displaying a graphical representation of the unfiltered data responsive to a determination of an end of a signal artifact event (para [0480]).

In regards to claim 12, Kamath teaches that the processing the received data comprises displaying a graphical representation of the unfiltered data except when a signal artifact event occurs (para [0480]).

In regards to claim 13, Kamath teaches a method for displaying data from a continuous analyte sensor (para [0127]), the method comprising: receiving data from an analyte sensor, including at least one of unfiltered data and filtered data (para [0008], [0056], and [0480]); detecting an occurrence of a signal artifact event based at least in part on an amplitude of a signal artifact, including detecting a start and an end of a signal artifact event (para [0007], [0483]-[0485]); and displaying a graphical representation of filtered data responsive to a determination of a start of a signal artifact event (para [0245]).

---Please see continuation box

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US 08/66600

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:  
Box V (2):

In regards to claim 14, Kamath teaches that the received data comprises unfiltered data, and wherein processing the received data comprises displaying a graphical representation of the unfiltered data responsive to a determination of an end of a signal artifact event (para [0480]).

In regards to claim 15, Kamath teaches that the processing the received data comprises displaying a graphical representation of the unfiltered data except when a signal artifact event occurs (para [0480]).

In regards to claim 16, Kamath teaches a device comprising a computer readable memory, the computer readable memory containing code for analyzing data from a continuous analyte sensor (para [0118]-[0121], [0127], [0215]), wherein the code comprises: instructions for receiving data from an analyte sensor, the data comprising at least one sensor data point (para [0008], [0215]); instructions for detecting an occurrence of a signal artifact event based at least in part on an amplitude of a signal artifact (Abstract; para [0007], [0187], [0215], [0368]); and instructions for processing the received data, wherein the processing is based at least in part upon whether a signal artifact event has occurred (para [0008]).

In regards to claim 17, Kamath teaches that the instructions for detecting an occurrence of a signal artifact event comprise instructions for determining an amplitude of the sensor data and instructions for determining an amplitude of a signal artifact (para [0162], [0292], [0368]).

In regards to claim 18, Kamath teaches that the instructions for detecting an occurrence of a signal artifact event comprise instructions for detecting a start of a signal artifact event when an amplitude of a signal artifact meets a first predetermined condition (para [0046], [0049], [0237], [0483], [0484]).

In regards to claim 19, Kamath teaches that the instructions for detecting an occurrence of a signal artifact event comprise instructions for detecting an end of a signal artifact event when an amplitude of a signal artifact meets a second predetermined condition (para [0046], [0049], [0237], [0483], [0485]).

In regards to claim 20, Kamath teaches that the first predetermined condition is different from the second predetermined condition (para [0046], [0049], [0237], [0488]).

In regards to claim 21, Kamath teaches that the instructions for detecting an occurrence of a signal artifact event comprise instructions for comparing the received data with filtered data to obtain at least one residual (para [0471]).

In regards to claim 22, Kamath teaches that the first predetermined condition is a residual amplitude that is at least about 5% of a sensor data amplitude, and wherein the second predetermined condition is a residual amplitude that is no more than about 5% of a sensor data amplitude (para [0329], [0400], and [0420]).

In regards to claim 23, Kamath teaches that the instructions for detecting an occurrence of a signal artifact event comprise instructions for determining a differential between a first residual at a first time point and a second residual at a second time point (para [0471], [0472]).

In regards to claim 24, Kamath teaches that the first predetermined condition is a differential amplitude that is at least about 5% of a sensor data amplitude, and wherein the second predetermined condition is a differential amplitude that is no more than about 5% of a sensor data amplitude (para [0329], [0400], and [0420]).

In regards to claim 25, Kamath teaches a device comprising a computer readable memory, the computer readable memory containing code for displaying data from a continuous analyte sensor (para [0118]-[0121], [0127], [0215]), wherein the code comprises: instructions for receiving data from an analyte sensor, the data comprising at least one unfiltered or filtered sensor data point (para [0008], [0056], [0215] and [0480]); instructions for detecting an occurrence of a signal artifact event based at least in part on an amplitude of a signal artifact event (para [0007], [0118]-[0121], [0215]); and instructions for displaying a graphical representation of filtered data responsive to a determination of a start of a signal artifact event (para [0245], [0480]).

In regards to claim 26, Kamath teaches that the received data comprises an unfiltered signal, and wherein the instructions for processing the received data comprise instructions for displaying a graphical representation of the unfiltered data responsive to a determination of an end of a signal artifact event (para [0480]).

In regards to claim 27, Kamath teaches that the received data comprises an unfiltered signal, and wherein the instructions for processing the received data comprise instructions for displaying a graphical representation of the unfiltered data except when a signal artifact event has occurred (para [0480]).

In regards to claim 28, Kamath teaches a system configured to continuously measure an analyte in a host (para [0127]), the system comprising: an analyte sensor configured to provide sensor data indicative of an analyte concentration in a host (para [0008] and [0184]); electronics operably connected to the sensor and comprising programming configured to detect a signal artifact event based at least in part on an amplitude of a signal artifact, including detecting a start and an end of a signal artifact event, wherein the electronics further comprise programming configured to process the sensor data, wherein the processing is based at least in part upon whether the signal artifact event is detected (para [0008], [0215], [0329], [0420], [0483]-[0485]).

In regards to claim 29, Kamath teaches that the programming configured to detect a signal artifact event comprises programming configured to determine an amplitude of the sensor data and programming configured to determine an amplitude of a signal artifact (para [0046], [0049], [0237], [0215], [0292], [0368]).

--Please see continuation box

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/US 08/66600

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:  
Box V (2):

In regards to claim 30, Kamath teaches that the programming configured to detect a signal artifact event comprises programming configured to detect a start of a signal artifact event when then an amplitude of a signal artifact meets a first predetermined condition (para [0046], [0049], [0237], [0483], [0484]).

In regards to claim 31, Kamath teaches that the programming configured to detect a signal artifact event comprises programming configured to detect an end of a signal artifact event when an amplitude of a signal artifact meets a second predetermined condition (para [0046], [0049], [0237], [0483], [0485]).

In regards to claim 32, Kamath teaches a system configured to continuously measure an analyte in a host (para [0127]), the system comprising: an analyte sensor configured to provide sensor data indicative of an analyte concentration in a host (para [0008] and [0184]); electronics operably connected to the sensor and comprising programming configured to detect a signal artifact event based at least in part on an amplitude of a signal artifact, and wherein the programming configured to process the sensor data comprises programming configured to display a graphical representation of filtered data responsive to a determination of a start of a signal artifact event (para [0008], [0215], [0329], [0420], [0480]).

In regards to claim 33, Kamath teaches that the sensor data comprises unfiltered data, and wherein the programming configured to process the sensor data comprises programming configured to display a graphical representation of the unfiltered data responsive to a determination of an end of a signal artifact event (para [0480]).

In regards to claim 34, Kamath teaches that the sensor data comprises unfiltered data, and wherein the programming configured to process the sensor data comprises programming configured to display a graphical representation of the unfiltered data except when a signal artifact event has occurred (para [0480]).

Claims 1-34 have industrial applicability as defined by PCT Article 33(4), because the subject matter can be made or used in industry.



## NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:  
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:  
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:  
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or  
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:  
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

### "Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

**It must be in the language in which the international application is to be published.**

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

### Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

### Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

## NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

### INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

#### What parts of the international application may be amended ?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

**When ?** Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

#### Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

**How ?** Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

#### What documents must/may accompany the amendments ?

##### Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.